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Agenda item 10

THE ADMINISTRATION OF JUSTICE AND THE HUMAN RIGHTS OF DETAINEES

Written statement submitted by the International Federation of Human Rights, a non-governmental organization in consultation status (category II)

The Secretary-General has received the following communication, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[27 July 1994]

Arbitrary detention, unfair trials and violations of the freedom of opinion, expression, association and religion in the Socialist Republic of Viet Nam

1. The International Federation of Human Rights (IFHR) and its affiliate, the Viet Nam Committee on Human Rights (Viet Nam Committee) are deeply disturbed by reports of widespread and continuing violations of the rights of freedom of expression, opinion, association and belief in the Socialist Republic of Viet Nam. The organizations are informed that thousands of political and religious prisoners are detained today in prisons and "re-education camps" or confined to house arrest solely on account of the peaceful expression of their opinions or beliefs.

2. Most of these prisoners are charged or convicted under article 73 of the Vietnamese Code of Criminal Procedure relative to "activities aimed at overthrowing the people's Government", or articles 72-100 regarding "crimes against national security". The provisions of these articles make no distinction between acts of violence, such as terrorism or bombing, and the peaceful exercise of the right to freedom of expression and association. As a result, people have been condemned to extremely harsh prison sentences for a whole range of legitimate peaceful activities. One such example is the case of 52-year-old Pham Van Quang who was sentenced to 15 years' imprisonment in February 1994 merely because he brandished the flag of the former Republic of Viet Nam during an international marathon race in Ho Chi Minh City in December 1992. He was charged with "deliberately committing subversive acts in a public place".

3. In a wave of political trials between March 1993 and March 1994 alone, the IFHR and the Viet Nam Committee are aware of at least eight unfair trials in which 3 people received life sentences and 45 others were condemned to a total of 421 years in prison solely for the peaceful exercise of their rights to freedom of expression, opinion and religion, or for their non-violent participation in movements calling for human rights. The organizations are particularly disturbed by the cases of:

(a) Dr. Doan Viet Hoat, former Vice-Rector of Vanh Hanh University and Professor of English, who was convicted on charges of "attempting to overthrow the Government" on 29 March 1993 simply for circulating a typed bulletin entitled "The Freedom Forum". He was sentenced to 20 years in prison and 5 years of privation of civil liberties, then given a token reduction to 15 years on 9 July 1993. Seven other intellectuals were also condemned to prison sentences ranging from 8 months to 16 years. Since his imprisonment, Dr. Doan has continued to write to the authorities calling for the respect of human rights, and has consequently been transferred five times to increasingly remote camps. In January, he was deported to Ba Sao Camp, then transferred on 22 April to Thanh Cam (K4) prison near the Laotian border. Dr. Doan is now held in solitary confinement, with shackles on his arms and legs. He is deprived of all contacts with the outside world. His wife, who travelled 1,000 kms, was forbidden to visit her husband. On 30 April 1993, the United Nations Working Group on Arbitrary Detention decided that Dr. Doan is a victim of arbitrary detention;

(b) Trinh Van Thuong and Nguyen Van Thanh, who were sentenced to 20 years' imprisonment and Nguyen Duc Loi and Nguyen Huu Son (18 years) for distributing leaflets calling for human rights (see E/CN.4/Sub.2/1992/NGO/13);

(c) Tran Manh Quynh, a 42-year-old former officer in the army of the former South Viet Nam and a resident of the United States, who was sentenced to 20 years' imprisonment on charges of "plotting to overthrow the people's Government" in Ho Chi Minh City on 26-27 May 1993. Le Thien Quang, Le Trong Quang, Tran Thi Huong, Bui Gia Liem and Le Quang Trinh also received sentences ranging from 3 to 15 years. They are all detained in A-20 Camp in the province of Phu Yen;

(d) Tran Tu, Nguyen Van Muon and Do Huon, citizens of the United States, who were sentenced to life imprisonment on 23 August 1993 in Ho Chi Minh City for "attempting to overthrow the people's Government"; Pham Anh Dung (from France) and Nguyen Ngoc Dang (Canada) received 20 years' imprisonment; Pham Duc Hau and Do Hong Van, 18 years; Le Hoan Son, 16 years; Pham Van Thanh, 12 years; Nguyen Duy Cuong, 10 years; Nguyen Phu, 3 years. They were tried at the Supreme People's Court instead of a court of first instance, which means they were deprived of the right to appeal.

4. The IFHR and the Viet Nam Committee are concerned that the political trials cited above did not conform to international standards, despite provisions in the International Covenant on Civil and Political Rights and the Vietnamese Code of Criminal Procedure which guarantee the right to a fair trial. None of the accused had access to independent legal counsel, nor was allowed to present his own defence, and the trials were closed to the public or press. Moreover, the right of accused persons to be presumed innocent until proven guilty was gravely undermined by the publication of accusations and judgements prior to the trials in the official media. This constitutes a grave violation of article 14 (2) of the Covenant, principle 36 of the United Nations Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and article 11 of the Code.

5. The IFHR and the Viet Nam Committee are especially disturbed by the continued arbitrary arrests and unfair convictions of religious prisoners over the past years, particularly of Buddhist clergy and followers of the Unified Buddhist Church of Viet Nam (UBCV). As the organizations have previously informed the Commission on Human Rights and the Sub-Commission, in successive written and oral statements, the Vietnamese authorities have banned the traditional UBCV in favour of a State-sponsored body, the Vietnamese Buddhist Church, and are invoking national security charges to imprison Buddhist monks and lay persons who continue to advocate the right to existence of the UBCV. Of particular concern are the unfair convictions and detention of:

(a) Ven Thich Tri Tuu, Superior monk at Linh Mu Pagoda, Hue, Ven. Thich Hai Tang, Thich Hai Thinh and Thich Hai Chanh who were convicted of "disturbing public security" in Hue on 15 November 1993 and condemned to three or four years' imprisonment. Five other Buddhists also received sentences ranging from six months to four years (see E/CN.4/1994/NGO/10). In January, they were transferred to Ba Sao, a notorious forced labour camp in Phu Ly province. They began a hunger strike in April 1994 to protest against the denial of their right to appeal and demand improved living conditions for their fellow prisoners. All the other political prisoners in section A of the camp joined the strike, whence the four monks were transferred to section B, a high-security zone reserved for dangerous common criminals. In the seventh week of their strike the prison authorities forcibly fed the monks with saline injections. The IFHR and the Viet Nam Committee are especially concerned about the health of Ven. Thich Hai Tang and Thich Tri Tuu, who are both seriously ill. Ven. Tri Tuu can hardly walk, and Ven. Thich Hai Tang suffers from chronic migraine and chest pains. They are not given any medical treatment, and forbidden to receive the medicine parcels sent by their families and friends;

(b) Ven. Thich Hanh Duc, Superior monk at Son Linh Pagoda, Ba Ria-Vung Tau province, who was sentenced to three years in prison for "handing out documents against the Socialist Republic of Viet Nam" at a closed trial in January 1994 (see E/CN.4/Sub.2/1993/NGO/14). He appealed against his sentence and was promised a retrial on 24 June 1994. However, this never took place, and Ven. Hanh Duc began a hunger strike in Phuoc Co prison on 7 July, declaring he would fast until death unless his appeal was granted. In punishment for this protest, he has been placed under disciplinary detention and is now chained hand and foot in a solitary confinement cell.

6. The IFHR and the Viet Nam Committee consider that the conviction or house arrest of these monks violates all standards of international and domestic law. The denial of the right to appeal contravenes article 205 of the Vietnamese Code of Criminal Procedure, and the inhuman conditions of detention to which they are subjected fall seriously short of the United Nations Standard Minimum Rules for the Treatment of Prisoners, notably paragraph 31 which prohibits "all cruel, inhuman or degrading punishments". Furthermore, the detention of citizens solely on account of their religious beliefs is totally inconsistent with article 18 of the International Covenant on Civil and Political Rights, which is a non-derogable right (art. 4 (2) of the Covenant), and article 70 of the Vietnamese Constitution, which guarantees the right to freedom of religion and conscience.

7. The IFHR and the Viet Nam Committee consider that similarly inhuman conditions of detention prevail in prisons and re-education camps all over Viet Nam. In a clandestine appeal sent via the Viet Nam Committee to the High Commissioner for Human Rights, Pham Van Thanh describes conditions in A-20 Camp, Phu Yen: "Medical treatment is virtually non-existent, and patients are admitted to hospital only when they are about to die ... . Over 2,000 prisoners have died from lack of medication here since 1978. The distribution of clothes, blankets and mosquito nets is also chronically insufficient ... . Any infringement of prison regulations is punishable by solitary confinement in dark, damp cells measuring 2.5 sq.m. Prisoners are chained up and fed only one bowl of rice per day mixed with salt water. Many prisoners have died as a result of this ... ."

8. Indefinite house arrest in places which are not the detainees' place of residence is also a widespread practice in Viet Nam. The organizations are particularly concerned by the continued house arrest of UBCV Patriarch Ven. Thich Huyen Quang at Hoi Phuoc Pagoda in Quang Ngai since 1982. The Vietnamese authorities claim that Ven. Quang is free, yet they do not allow him to travel or receive visits. In a communiqué sent clandestinely from Quang Ngai on 5 May 1994, Ven. Quang confirms that he is still under house arrest. Because of Ven. Quang's failing health, the IFHR and the Viet Nam Committee are calling on the Vietnamese Government to allow him to return to his pagoda in Ho Chi Minh City where he can receive adequate medical treatment. Another prominent dissident under house arrest is Nguyen Ho, veteran Communist Party member and former head of the Club of Former Resistance Fighters, which was banned in 1990. He was arrested in March 1994 for circulating a searing criticism of the regime entitled "Viewpoint and daily life". He was first detained in Thu Duc and is now under house arrest at his own home.

9. The IFHR and the Viet Nam Committee are deeply disturbed by these grave violations of human rights in the Socialist Republic of Viet Nam and reiterate their request that international observers should be allowed to investigate these conditions on the spot. The organizations strongly urge the Sub-Commission to examine the human rights situation in Viet Nam as a matter of high priority in its forty-sixth session.